

**Notice of Allowability**

Application No.

09/839,745

Examiner

Jocelyn Greimel

Applicant(s)

HORGAN, MICHAEL J.

Art Unit

3693

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/1/07.
2. ☒ The allowed claim(s) is/are 2-9, 21 and 23-54.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

1. This communication is in response to Applicant's Amendments and Remarks filed 01 August 2007 and the Interview conducted 10 July 2007.

### ***Status of Claims***

2. Claims 2-9, 21, 23-32 and 33-54 are currently pending. Claims 2, 21 and 23 are currently amended. Claims 1, 10-20, 22 and 33-43 have been canceled. Claims 1, 21 and 23 are independent claims.

### ***Allowable Subject Matter***

3. Claims 2-9, 21, 23-32 and 33-54 are allowed.

### ***Reasons for Allowance***

4. The closest prior art that the Examiner has been able to locate is Levine et al (US Patent No. 5,477,038) in view of Canney (US Patent No. 6,581,041B1) and further in view of Kolling et al (US Patent No. 5,920,847). Levine teaches a method and system for use of "electronic traveler's cheques" or ETCs in a pre-paid card. The cards of Levine are not issued, but are sold through an agent. The money from the cardholder becomes the property of the issuer of the card. The value of the pre-paid card is not federally insured and the cardholder has no guarantee of sustained value. Levine is built on a conventional pre-paid card structure with a segmented account of the issuer, which is accessed through a proprietary process performed at an ATM.

This system of Levine is subject to the liability and risk of chargebacks as there is no assurance that the merchant will be paid in response to completing a transaction. Canney teaches a payment card combined with a unit investment trust account. Kolling discusses transaction settlement for a bill payment system. While there are similarities between the combination of Levine, Canney and Kolling and the proposed invention, there are clear patentable distinctions. Specifically, Levine is a conventional pre-paid account card. The proposed claimed invention is drawn to trust account as the basis for aggregating a plurality of virtual accounts under the control of a trustee. Levine does not teach an account structure linked to a trust account. Levine does not teach Applicant's claimed language of a trust account with a trustee mechanism within the payment card configuration. There is no trustee of the account and its associated fiduciary obligations to the cardholder as beneficiary. In conventional pre-paid payment cards, such as the card of Levine, the card issuer and not the cardholder, owns the money remitted for the card. If the card issuer becomes insolvent then the pre-paid card has no value. A trust account, on the other hand, is never subject to the bankruptcy of the trustee, and the bank controlling the trust is legally liable for all account balances. Secondly, the proposed claimed invention claims immediate transfer of balances and insures that the transaction takes place without creating a chargeback liability. This distinction is important because in Applicant's claimed invention, the charges are irrevocably settled immediately. In Levine, the charges are not settled immediately but later in a batch form. Because the charges are settled immediately and irrevocably, there is no risk of to the merchant for a chargeback. Additionally, Canney does not teach a combination of a trust account as in Applicant's claims and a payment card structure but another type of unit investment trust. Also, Kolling discloses a method and system for settling transaction balances

but for a bill paying system and not a payment card system. Finally, the Examiner would like to note that there is no motivation in Levine, Canney or Kolling to apply the payment systems to a trust account. While references disclose some elements of the proposed claimed invention, the modifications to Levine, Canney and Kolling that would be required to achieve Applicant's method and system, assuming such missing elements could be located in the prior art, could only be motivated by facts and suggestions deduced from impermissibly referring to Applicant's disclosure in hindsight.

5. **The following is a formal statement of the Examiner's reasons for allowance:**

Claims 2, 21 and 23 are allowed because the best prior art of record, Levine, alone or in combination with Canney and/or Kolling, neither discloses nor fairly suggests the limitations, in a method, system and computer readable medium, for facilitating payment transactions, comprising:

*generating a virtual account on behalf of a user, within a trust account configured for aggregating a plurality of virtual accounts under the control of a trustee appointed to administer the funds within the trust account;*

*said trust account configured with an associated repository of capital sufficient to disburse funds by said trustee equivalent to the cumulative balances within the associated virtual accounts;*

*issuing, to a user as a cardholder, a virtual account electronic payment card encoded with said virtual account number and linked to said trust account;*

*accessing said virtual account in response to presentation of payment transaction information associated with a virtual account payment card when executing a payment transaction; and*

*immediately transferring any portion of a balance from the virtual account of said user, as said trustee releases a level of funds from the trust account in response to user directive, to render payment for executing said payment transaction without creating a chargeback liability.*

*Also, comprising:*

*manufacturing a virtual account payment card containing a virtual account number printed or embossed on the card, and encoded magnetically within a magnetic stripe on the virtual account payment card;*

*generating a virtual account corresponding to the virtual account payment card, said virtual account maintained as a record within the database for a trust account, said virtual account record containing balance information indicative of the portion of funds received within the trust account which may be paid out from the trust account in response to a transaction with the virtual account payment card;*

*processing the virtual account payment card for a transaction the same as that used for other payment cards; and*

*settling the transaction by the trustee, appointed to administer the funds within the trust account, from said trust account on behalf of the cardholder in response to the trustee releasing a level of funds from the trust account in response to cardholder directive;*

*wherein said transaction is settled immediately, without incurring chargeback liability, upon processing said transaction, by decrementing the existing balance of the virtual account in response to payments made with the virtual account payment card, and incrementing the existing virtual account balance in response to transfers made into the virtual account payment card.*

Claims 3-9, 24-32 and 44-54 are also allowed for the same reasons discussed supra, in that they are dependent on allowed claims 2, 21 and 23.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
November 16, 2007

  
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11.26.07